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TECHNICAL COOPERATION AND STRENGTHENING OF THE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME

Technical cooperation and advisory services of the United Nations crime prevention and criminal justice programme

Report of the Secretary-General

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INTRODUCTION

1. One of the main goals of the United Nations crime prevention and criminal justice programme, as formulated by the Ministerial Meeting on the Creation of an Effective United Nations Crime Prevention and Criminal Justice Programme held at Versailles, France, from 21 to 23 November 1991, is to provide technical assistance, including advisory services, particularly in respect of the planning, implementation and evaluation of crime prevention an d criminal justice programmes, training and the use of modern communication and information techniques.* I n resolution 1992/22 of 30 July 1992, the Economic and Social Council decided that, under the guidance of th e Commission on Crime Prevention and Criminal Justice, the secretariat of the programme should be responsible for facilitating the planning, coordination and implementation of practical activities in the field of crime prevention and criminal justice and decided to make technical assistance a standing item of the agenda of the Commission, beginning with the second session.

2. Because of the urgent and growing needs, Member States continued to express the wish that the capacity of the programme be further strengthened in technical assistance. Thus, the Economic and Social Council, in it s resolution 1995/27 of 24 July 1995, expressed its determination to give effect to the resolutions an d recommendations of the Ninth United Nations Congress on the P revention of Crime and the Treatment of Offenders, taking into account the guidance provided by the Commission at its fourth session, in order to strengthen th e operational capacity of the programme. Furthermore, the General Assem bly, in its resolution 50/146 of 21 December 1995, reaffirmed the high priority attached to technical cooperation and advisory services, stressed the importance of continuing to improve the operational activities of the programme, particularly in developing countries an d countries in transition, and expressed its appreciation for the provision of the services of two interregional advisers. In its resolution 50/214 of 23 December 1995, the General Assembly also approved the continuing funding of the

*See the statement of principles and programme of action of the United Nations crime prevention and criminal justice programme, approved by the General Assembly in its resolution 46/152 of 18 December 1991, annex, paragraph 17 (e).

two posts of interregional advisers, together with other resources for technic al cooperation activities, under section 20 (regular programme of technical cooperation), of the 1996-1997 programme budget.

3. The present report covers the technical cooperation activi ties and advisory services initiated or carried out from May to December 1995. It further discusses the growing role of crime prevention and criminal justice i n international cooperation and development, as exemplified, *inter alia*, by the influence of criminal law in the protection of the environment and by the crisis of law and order in new democracies. The report also addresse s issues related to the funding of technical cooperation. In a separate section, the report summarizes informatio n received from Member States on the succession of States in respect of international treaties on combating various forms of crime.

I. IMPORTANCE OF TECHNICAL ASSISTANCE

4. The focus on delivery of technical assistance* to help countries to use law enforcement and criminal justic e resources in a more effective and democratic way was reflected in the new format of the Ninth Congress. Th e decision to make technical assistance one of the items on the agend a of the Ninth Congress confirmed the central role of the operational activities within the programme. During the special plenary session of the Congress devoted to technical cooperation, it was stated that technical cooperation was indispensable to building and supporting both democratic institutions and effective criminal justice systems. All who spoke on the topic stressed that technica l assistance benefited not only developing countries, but the international community at large, since it contributed to creating conditions favourable to peace and stability.[1] During the debate, it was pointed out that technical assistance had to respond promptly to the needs and the priorities of Member States, and that its modalities should reflect the local level of development, social and regional characteristics and resources. Specific reference was made to th e possibility of considering, in some regions, tr aditional forms of criminal justice as additional tools for implementing international norms and standards. The difficulties in rebuilding collaps ed institutions as well as the need for criminal justice systems to regain the trust of citizens after years of dictatorship and abuse by the political powers emerged from the statements made by representatives o f those countries which in recent years have been afflicted by war and civil strife. It was pointed out, for example, t hat a well-trained and well-equipped police was a necessary component of democratic societies. Representatives of countries in transition underlined their need for continuous assistance from the international community to strengthen their criminal justice systems to counter the threat of organized crime.

5. At the Ninth Congress, Member Sta tes, in the resolution concerning recommendations on the four substantive topics of the Congress, took note of the important processes of democratization, strengthening the rule of law and increasing transparency in States and recommended that the international community should support such efforts as part of its contribution to sustainable development.[2] Member States were invited to actively support th e programme in organizing and carrying out operational activities by means of extrabudgetary contributions and the Commission was invited to call on the United Nations Develo pment Programme (UNDP), the World Bank and other international, regional and national funding agencies to support technical cooperation activities devoted t o strengthening the rule of law and cooperation with the programme, in order to ensure proper coordination. Th e Commission was also invited to request the Secretary-General to further strengthen operational activities i n developing countries and countries in transiti on, by providing, drawing upon extrabudgetary contributions, advisory services and training programmes and by carrying out field studies at the national level.

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*See also: (a) the working paper prepared by the Secretariat on international cooperation and practical technical assistance for strengthening the rule of law: promoting the United Nations crime prevention and criminal justice programme (A/CONF.169/4), submitted to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders; (b) report of the Secretary-General on progress made in the implementation of General Assembly resolution 49/158 (A/50/432); and (c) report of the Secretary-General on the implementation of General Assembly resolution 49/159 on the Naples Political Declaration and Global Action Plan against Organized Transnational Crime (A/50/433).

6. The Commission, at its fourth session, emphasized the importance of technical assistance, especially as new dimensions of crime, namely its transnational aspects, call for solutions requiring the strengthening of channels of cooperation, particularly in developing countries and countries in transition. It was also noted that further modalities had to be explored in addition to the existing forms of providing technical assistance, including advisory services aimed at drafting new legislation, at adapting model laws, and at developing comprehensive national criminal legislation, training activities, exchange of information, and assistance provided as part of peace-keeping operations.

7. The Secretary-General, in his report, considered by the General Assembly at its fiftieth session, on progress made in the implementation of General Assembly resolution 49/158 of 23 December 1994 (A/50/432), analysed the importance of and the need for technical assistance in the field of crime prevention and criminal justice. In the report, particular attention was drawn to the new approach in United Nations activities, which emphasizes the complementarity of justice and peace and development and the need to address them simultaneously. The report, *inter alia*, highlighted that success in building democratic institutions and reviving the economy of a country depends largely on the observance of the rule of law and adequate security for persons. These are as essential for democratic development as they are for economic development. The lack of a secure environment for economic growth can discourage foreign investments. In addition, illicit operations siphon off vast sums that could have been used for the common good.

8. States which are going through a process of change and transformation from a centralized economic regime into a system with a market economy can be easy prey for criminals disposing of technological means and know-how. Training criminal justice personnel and updating obsolete criminal codes could contribute to successfully combating such a danger. The improvement of "governance", which includes a properly functioning criminal justice system, plays a central role in the rebuilding of a country following an international conflict or a civil war. The Secretary-General pointed out that: "As conflict typically takes a heavy toll on the mechanisms of governance, post-conflict efforts must pay special attention to their repair. Key institutions of civil society, judicial systems, for example, may need to be reinforced or even created anew. This means assistance for a variety of governmental activities, such as a fair system for generating public sector revenue, a legislative basis for the protection of human rights, and rules for the operation of private enterprise."[3]

9. The General Assembly, in its resolution 50/146 of 21 December 1995, recognized the direct relevance of crime prevention and criminal justice to sustained development, stability, security and improved quality of life, as well as the urgent need to increase technical cooperation activities to assist countries, particularly developing countries and countries in transition, with their efforts in translating United Nations policy guidelines into practice.

II. OVERVIEW OF TECHNICAL COOPERATION ACTIVITIES

10. Since 1991, there has been a steady increase in the attention and resources devoted by the United Nations to technical assistance in the area of crime prevention and criminal justice. There are now two interregional advisers rather than one. They are associated with the Department for Development Support and Management Services (DDSMS), which has overall responsibility for development support, thus providing a link with headquarters entities. The crime prevention and criminal justice programme is also regularly involved in aspects of peace-keeping operations, whether by way of providing advisory services at the time of the overall planning of the mission, or by assisting in rebuilding criminal justice institutions as part of post-conflict reconstruction. The special role played by the programme in the reconstruction of the prison system in Haiti was acknowledged in the report of the Secretary-General on the United Nations mission in Haiti (S/1995/614). The programme also fielded missions in support of the United Nations efforts in Rwanda and Burundi. It is part of the innovative work of preventive diplomacy now being undertaken by the United Nations in the former Yugoslav Republic of Macedonia. Consideration was also being given to specific ways in which a substantive and technical contribution could be given, within their respective field of competence, to other components of the United Nations system in the current peace-keeping efforts in Bosnia and Herzegovina and eastern Slavonia.

11. Sharpening the focus of attention on operational and practical activities has increased the capacity of th e programme to serve as the vehicle of choice for bo th bilateral and multilateral technical cooperation among Member States. As a result of the increased capacity, the progra mme last year considerably strengthened its operational links with both the United Nations International Drug Control Programme (UNDC P), with its regional offices, and UNDP, with its network of 136 offices serving more than 174 countries. With respect to UNDP, the crime prevention and criminal justice programme relied increasingly on the support of UNDP country offices, particularly for missions which were directly required by Member States. The programme also participated in UNDP organized missions. There was a growing recognition by certain UNDP regional bureaux that the programme is a unique resource within the United Nations system, and as such should be involved from the outset in development activities related to the administration of justice. The technical cooperation activities of the programme in the area of organized crime and corruption, such as the Regional Ministerial Workshop on Follow-up to the Naples World Ministerial Conference on Organized Transnational Crime, held at Buenos Aires from 27 to 30 November 1995, should now result in joint initiatives with UNDP and DDSMS to strengthen good governance by fighting corruption.

12. However, the measures imposed in September 1995 to deal with the financial crisis of the United Nations have particularly affected the advisory services and operational activities (Secretary-General's bulletin ST/SGB/278 of 14 September 1995). For example, because of those measures, several activities had to be postponed, such as the following: (a) a needs assessment mission to Liberia, where the advisory services of the programme were requested for the rebuilding of the central prison at Monrovia; (b) a mission to Macedonia on organized crime, crim e prevention and terrorism; (c) the holding of a mini sterial workshop for African countries on training in transnational organized crime; and (d) a resource mobilization mission to Scandinavian countries. Furthermore, the financial crisis of the Organization continues to impinge on the day-to-day operational capacity of the programme.

13. During the period under review, the Crime Prevention and Criminal Justice Division of the Secretariat, with the two interregional advisers for crime prevention and criminal justice based at Vienna, continued to provid e technical assistance, including a broad range of activities, including: training courses, seminars and workshops ; fellowships, needs assessment missions; advisory services ; projects formulation and contributions to United Nations peace-keeping. The present section of the report gives a general overview of the technical activities initiated o r carried out between May and December 1995.

A. Advisory services

14. Technical missions at the request of national Governments constituted a major part of the activities carried out by the interregional advisers. In Brazil, one of the interregional advisers was requested by the government to assess the conditions of the correctional system in order to prepare a project for its improvement. In Burundi, the purpose of the mission was to establish contacts with the local authorities regarding the holding in the future of a series of seminars for senior police officials.

15. One of the interregional advisers visited Kazakstan, Kyrgyzstan and Pakistan. The mission in Kyrgyzstan , organized by UNDP at the request of the Minister of Internal Affairs and conducted jointly with the United Nations Interregional Crime and Justice Research Institute (UNICRI), examined several aspects of the criminal justic e situation, among them the state of the correctional services, the fight against organized crime and economic crime. The mission resulted in a report which in 1996 will be circulated t o donor Governments to enquire as to what aspects they would be interested in financing. During the visit to Kazakstan, possible initiatives on prison reform and the possible use of criminal sanctions in the protection of the environment were discussed. The mission to Pakistan, jointly organized with UNDCP and carried out in Se ptember 1995, was a follow-up to an earlier mission and sought to have the government reaction to the draft report of that earl ier mission. The same interregional adviser also visited Albania to discuss with the relevant authorities the formulation of two major projects on the reform of th e administration of the correctional system and on the establishment of a new system of juvenile justice.

16. At the Ninth Congress, the two interregional advisers conducted a series of one-to-one interviews with all the delegations from least developed countries. The interviews highlighted the fact that least developed countrie s

required considerable assistance with the development of one or more aspects of their criminal justice systems. The interregional advisers have compiled a compendium of those needs and, to attempt to meet the most urgent ones, have begun to work within the small budget allocated by the United Nations to the Division under section 20 of the programme budget for technical cooperation. To meet those needs, especially those which require a long-term commitment, funding will have to be obtained from donor countries.

17. The interregional advisers were also called upon to participate in expert group meetings, international conferences related to technical assistance, meetings with donor countries, development aid agencies, and interregional organizations for fund-raising and project implementation. One of the interregional advisers represented the Crime Prevention and Criminal Justice Division at the Conference on the Preparation of the Civilian Personnel of United Nations Peace-keeping Operations organized by the Austrian Study Center for Peace and Conflict Resolution, held at Schlaining, Austria, from 1 to 3 July 1995. The Conference considered the possible content of a training programme. It also considered the creation of a network of training institutes for such civilian personnel and accessible rosters of experts in the administration of justice to be shared among the Division, the United Nations Volunteers and the United Nations Department of Peace-keeping Operations. The same interregional adviser also participated in the twelfth meeting of the Group of Experts on Public Administration and Finance held at New York from 31 July to 11 August 1995, providing specific advice in the area of crime prevention and criminal justice as to the role of technical assistance in developing public administration capacity.

18. At the request of the United Nations High Commissioner for Human Rights, one of the interregional advisers attended an inter-agency meeting on technical cooperation in support of the work of the Committee on the Rights of the Child. He met with the members of the Committee and with other relevant United Nations agencies to attempt to coordinate technical cooperation activities among the latter in support of the recommendations of the Committee designed to enhance national implementation of the Convention on the Rights of the Child, adopted by the General Assembly by its resolution 44/25 of 20 November 1989 and annexed thereto.

19. One interregional adviser also participated in the Conference of the Ministers of Justice of the French-speaking countries, organized by the *Agence de la Francophonie* and held at Cairo. The Conference was attended by delegations from 47 countries, 29 headed at the ministerial level. In its report, it reaffirmed the importance of the conclusions of the Ninth Congress, and included a request for closer cooperation with the United Nations crime prevention and criminal justice programme. Cooperation with the Division was included in the programme of action of the Organization for the years 1996 to 2000 with the objective, on a global level, of furthering democratic governance and sustainable development under the rule of law through the promotion of an independent, accessible and efficient judiciary.

20. In November 1995, one of the interregional advisers participated in the Regional Ministerial Workshop held at Buenos Aires. The meeting discussed and analysed possible technical cooperation follow-up to that Conference, and two major regional projects, the first one dealing with transnational organized crime, the second one with corruption. During the Workshop, the interregional adviser also held numerous bilateral discussions with individual delegations (Bolivia, Chile, Costa Rica, Guatemala, Mexico, Nicaragua, Panama and Venezuela) as to possible future technical cooperation projects.

21. One of the two interregional advisers conducted a series of meetings with officials of the Canadian Department of Foreign Affairs and International Trade, the Canadian International Development Agency, and the Foreign and Commonwealth Office and Home Office of the United Kingdom concerning funding of technical cooperation projects in eastern Europe, the Commonwealth of Independent States (CIS) and Pakistan.

22. The United Nations crime prevention and criminal justice programme also includes a regional adviser for Asia and the Pacific, based at the Economic and Social Commission for Asia and the Pacific (ESCAP), whose post is financed by the Government of Japan. The regional adviser, during the period under review, undertook a mission to Vanuatu, upon request of the Ombudsman of Vanuatu and provided advisory services for staff training in connection with the Standard Minimum Rules for the Treatment of Prisoners.[4] He also served as a resource person in a seminar

for senior policy makers on prisoner treatment and prison management. During an advisory mission to Fiji, th e regional adviser visited several prisons upon request of the Fiji Prisons Service, and provided advisory services on prisoners' education and classification from the viewpoint of the implementation of the Standard Minimum Rules.

23. Furthermore, the regional adviser developed collaborative arrangements with, and provided advisory services to, various entities, including the Asia and Far East Institute for the Prevention of Crime and the Treatment o f Offenders, the Asia Crime Prevention Foundation, the Japan International Cooperation Agency, the Ministry o f Justice of Japan and the Ministry of Justice of Thailand. In 1996, the regional adviser is expected to take in a regional project on community-based prevention of juvenile delinquency, to be implemented by ESCAP with th e collaboration of the Asia and Far East Institute.

B. Training

24. Training in crime prevention and criminal justice is vital as a means of improving skills and professionalism in all sectors of criminal justice.* Training effor ts in this area, if included in the overall context of development, can help to formulate more effective and democratic national policies. Training has a multiplier effect when its target are trainers. Between May and December 1995, the Division received more than 30 requests for training in different fields, including correctional services, police, organized crime, drug trafficking, juvenile justice, crime prevention and peace-keeping. Some of the major initiatives undertaken in the training of personnel are presented below.

25. In response to a request for assistance received from the Governments of Malawi, Uganda and the Unite d Republic of Tanzania, the Division organized at Kampala a workshop on the training of trainers of the custodia l corps of the three African countries concerned. The purpose of the workshop, which was hosted by the Africa n Institute for the Prevention of Crime and the Treatm ent of Offenders, was to present the *Basic Training Manual for Correctional Workers*, prepared by the International Scientific and Professional Advisory Council (ISPAC), and already successfully used in a similar workshop held at Barbados in April 1995.** The manual was also used as a training tool in a seminar for prison personnel held in Brazil from 28 August to 2 September 1995.

26. The Division cooperated with the Raoul Wallenberg Institute of Human Rights and Humanitarian Law, th e Swedish International Development Agency (SIDA) and the office of the Special Representative of the Secretary-General in Burundi in organizing six training seminars for high-ranking Burundian police officials and militar y officers with responsibility for internal security. The seminars focused on the human rights aspects of the polic e work and on the use and application of international standards in crime prevention and criminal justice. Timing and content of the seminar seemed to be particularly relevant in view of th e political instability of Burundi and the special role played within the country both by the police and the military forces. The Division also cooperated with th e Raoul Wallenberg Institute in drafting a manual, *Principes fondamentaux relatifs aux droits de l'homme et la justice pénale à l'intention des forces de police et de sécurité au Burundi*, largely based on the content of the *United Nations Criminal Justice Standards for Peace-keeping Police* (the so-called "blue book"), a handbook prepared by the Division in cooperation with the Internat ional Centre for Criminal Law Reform and Criminal Justice Policy, and aimed at illustrating the international and n ational norms in the field of human rights and criminal justice to the Burundian police officers.

27. Following the model of the two-week training course held at Kiev in February 1995, the Division, within the framework of a UNDCP project, organized at Minsk a train ing course for police officers in charge of units operating

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*The Economic and Social Council, in its resolution 1992/22, emphasized the role of training and called on the United Nations crime prevention and criminal justice programme to serve as a worldwide training network for developing countries. In its resolution 1995/15 of 24 July 1995, the Council underlined the fact that one of the most effective ways to meet the needs of States in the area of crime prevention and criminal justice is through operational activities, such as training programmes.

**See the report of the Secretary-General on technical cooperation and strengthening of the United Nations crime prevention and criminal justice programme (E/CN.15/1995/6, paragraph 18).

in the field of organized crime, economic crime, general policing and training. The course aimed at giving th e participants a good understanding of United Nations standards and norms in the area of crime prevention, la w enforcement and cooperation in the fight against organized crime.

28. The programme, as part of its technical cooperation activities under section 20 of the programme budget , organized, with the Government of Argentina, a workshop on transnational crime for ministers responsible fo r criminal justice in the Latin American and Caribbean region. Ministers and other delegates reported on what they had learned about methods of dealing with organized transnational cr ime, and formulated a declaration on the subject that was to be implemented in part by two region-wide technical cooperation projects.

C. Fellowships

29. The Division organized for the first time a programme of fellowships in the field of crime prevention an d criminal justice for developing countries and countries in transition, funded from the regular budget for technica l cooperation. The fellowship programme is aimed at enabling the recipient s to undertake practical studies in technical cooperation in any aspect of crime prevention, criminal justice or the relationship between crime and development.

30. During the period under review, six high-level criminal justice professionals from China, Cook Islands , Dominican Republic, Guinea, India and Jamaica were chosen.* The recipients, selected among 106 nominees from Africa, Asia, Latin America and the Caribbean, eastern Europe and the CIS, focused their work on a wide range of topics, such as illegal arms and drug trafficking, money-laundering, organized crime, reform of the correctiona l system, juvenile delinquency, computerization of criminal ju stice information and crime prevention. All fellows were nominated by their Governments on the basis of their academic and professional experience in the criminal justice field, and, except for the recipient of the Cook Islands, they carried out their studies at the United Nations Office at Vienna under the direction of the Division.

31. On the basis of an evaluation of the first fellowship programme, the next cycle of the fellowship programme in 1996/97 will focus not only on studies to be carried out within the Division, but also on firsthand experience in institutions such as national research institutes of various coun tries, in order to allow for an exchange of experiences.

32. A senior prosecutor of Burundi was selected to receive the Leo Rosenthal Fellowship in juvenile justice fo r nationals of countries in Africa and Asia. The Leo Rosenthal Fellowship, established with funds bequeathed by a former United Nations freelance photographer who died in 1970, is offered with the specific purpose of enabling nationals of African and Asian countries to undertake programmes of study in the prevention of juvenile delinquency. The Leo Rosenthal Fellow carried out a study on the relationship between juvenile delinquency and preventiv e policies.**

D. Contribution to United Nations peace-keeping operations

33. The role of crime prevention and criminal justice in the maintenance of peace and security was emphasized by the General Assembly in the statement of principles of the United Nations crime prevention and criminal justic e programme (resolution 46/152, annex, sectio n I) recognizing that democracy and a better quality of life can flourish only in a context of peace and security for all. The Economic and Social Council, as recommended by th e

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*The six recipients were: Mrs. J. Bent, Director of Training for the Jamaica Constabulary Force (Jamaica); Mrs. O. Herrera Carbiccia, Judge of the Criminal Appellate Court (Dominican Republic); Mr. J. Sarangi, Deputy Inspector-General of Tihar Jail, New Delhi (India); Mrs. A. Tuara, Chief Probation Officer (Cook Islands); Mrs. Wu Yan Shi, Division Chief in charge of crime prevention and criminal justice matters in the Ministry of Justice (China); and Mr. N.Y. Sylla, Director of the Judiciary and Penal Administration of the Ministry of Justice (Guinea).

**The Leo Rosenthal Fellow, Mr. Deo Gratias Suzuguye, is a magistrate and first substitute Prosecutor-General of Burundi.

Commission, has approved several resolutions which stressed the role of the United Nations crime prevention and criminal justice programme as far as peace-keeping operations are concerned.* In its resolution 1995/15 of 2 4 July 1995, the Council noted with appreciation the c ontribution of the United Nations crime prevention and criminal justice programme to United Nations peace-keeping and special missions, as well as its contribution to the follow-up to those missions, *inter alia*, through advisory services, and encouraged the Secretary-General, as a way o f strengthening the rule of law, to recommend the inclusion of the re-establishment and reform of criminal justic e systems in peace-keeping operations. Identical appreciation was expre ssed by the General Assembly in its resolution 50/146.**

34. The Division was requested to contribute directly to a num ber of peace-keeping missions of the United Nations with different tasks and goals, or indirectly by assisting Governments of countries where such peace-keepin g missions were carried out. During the period under review, the Division provided assistance in particular to th e operations deployed in Haiti, Rwanda and the territory of the former Yugoslavia.***

35. In response to a request of the UNDP Resident Coordinator and the Head of the International Civilian Mission to Haiti, in January 1995, the Division had provided advisory service for the modernization of the correctiona l services in order to improve prison conditions. Following up that mission, the Division prepared a programme for penal reform, jointly funded by UNDP and the United States Agency for International Development (USAID) , providing for a system of registration of prisoners, establishm ent of a penal administration system, training of prison wardens and renovation of certain detention centres. Six out of 15 prisons are being rehabilitated, including th e national penitentiary. In July 1995, the Division, in cooperation with the *Ecole nationale de la magistrature* of France, also organized a training seminar for prosecutors, held at Port-au-Prince.

36. Following a request from the Minister of the Interior of the former Yugoslav Republic of Macedonia, one of the interregional advisers for crime prevention and cr iminal justice undertook a five day mission to that country. The purpose of the mission was to advise senior officials of the Ministry of the Interior on the implementation of five programmes concerning crime prevention; anti-corruption measures; measures against drug trafficking; money - laundering; and organized crime.

37. A mission to Kigali, Rwanda, was unde rtaken by the Division, including one of the two interregional advisers, to participate in the UNDP round table on the mid-point review of the assistance rendered to Rwanda. On tha t occasion, expertise and advisory services were provided by the Division in connection with the projects of DDSMS and UNDP on the rehabilitation of the judicial system and the correctional services of the country.

38. On the basis of the positive experience of the two previous workshops (January and November 1994), a third workshop for civilian police components of the United Nations Peace Forces (UNPF) was organized at Wiene r Neustadt by the Division in cooperation with the Government of Austria and the Training Unit of UNPF.

39. More information on the contribution of the crime prevention and criminal justice programme to United Nations peace-keeping operations through the years are provided in an ad hoc conference room paper, which will b e distributed to the Commission at its fifth session.

III. CRIME PREVENTION AND CRIMINAL JUSTICE AS AN EMERGING FOCUS FOR INTERNATIONAL COOPERATION AND DEVELOPMENT

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*Economic and Social Council resolution 1992/22 of 30 July 1992, 1993/34 of 27 July 1993 and 1994/22 of 25 July 1994.

**See also General Assembly resolution 49/158 of 23 December 1994.

***On the contribution given by the crime prevention and criminal justice programme to the United Nations peace-keeping missions, see the report of the Secretary-General contained in document A/50/432, paragraphs 44-47.

40. Since 1991, crime prevention and criminal justice has emerged as a distinct field in international cooperation and development. The renewal of the crime prevention and criminal justice programme in 1991 was in part driven by a realization that the United Nations' institutions and mechanisms had to be considerably strengthened to meet the need to expand international cooperation in this area. The creation of the Commission on Crime Prevention and Criminal Justice in 1991 was also a response to this need. In 1992, the programme became a separate section in the United Nations regular budget (section 13). In the budget for the biennium 1994-1995, a distinct allocation was made to the programme for the first time from the overall section 20 regular budget for technical cooperation. In its resolution 50/214, the General Assembly approved the upgrading of the Crime Prevention and Criminal Justice Branch to a Division.

41. The increased recognition of crime prevention and criminal justice has also been reflected in the institutional organization of and increased resources assigned to the area by Member States since 1991. Several Member States have created or reorganized offices in their ministries of foreign affairs to deal expressly with this field. In the United States, for instance, the Bureau of International Narcotics Matters in the State Department is now the Bureau for International Narcotics Matters and Crime. In Canada, the Division of Human Rights is now the Division of Human Rights and Justice. The recognition of this field as one of growing importance in international relations in foreign ministries is slowly permeating development assistance agencies as well, whether multilateral ones such as UNDP or national ones.

A. The role of criminal law in the protection of the environment

42. The United Nations crime prevention and criminal justice programme has a crucial role to play in protecting the environment through criminal law, by facilitating technical assistance, research, training, advisory services and education. The programme had received a clear mandate in Council resolution 1995/27 of 24 July 1995, in which the Council called upon the Secretary-General, as well as UNICRI and the regional institutes for the prevention of crime and the treatment of offenders, to continue research, exchange of information, training and technical cooperation facilitating the development of preventive, regulatory and other strategies on the role of criminal law in the protection of the environment, with an emphasis on: (a) needs assessment and advisory services; (b) assistance in the review or redrafting of legislation and the development of effective infrastructure; and (c) training of criminal justice and regulatory agency personnel.

43. Subject to the availability of resources, the Crime Prevention and Criminal Justice Division intends to develop operational activities and specific projects in the field of environmental crime. The Division further intends to encourage the development of integrated joint projects with the relevant United Nations entities. In pursuance of its mandate, and also in view of the specific requests from a number of countries for assistance and advisory services, the Division, in cooperation with UNICRI and the United Nations Environment Programme (UNEP), intends to prepare a pilot project to enhance the role of criminal law in the protection of the environment at the national as well as regional levels. The project would include needs assessment missions as to the state of the law in a given country and the preparation of new policy guidelines, rules and regulations, which could be codified and simplified, in order to ensure broad enforcement. In terms of assistance in reviewing or redrafting of legislation, the goal would be to prepare a comprehensive collection of all relevant environmental law. In addition, the project would include the establishment or strengthening of an environmental permit and enforcement system and the organization of training courses for criminal justice, law enforcement and administrative agency personnel. In order to endorse broad distribution of the knowledge, a standard-setting manual for practitioners would be prepared, and an electronic database accessible to judiciary, agencies and practitioners would be established.

44. It may be recalled that the Division has also elaborated, in cooperation with UNDP and UNICRI, a "Monograph on capacity building in criminal enforcement of environmental law". The Monograph identifies areas where concrete projects could be developed. It proposes elements on which technical assistance activities may focus, such as legislation, institution-building, enforcement tools, training and education.

45. In order to receive comprehensive information in the area of environmental crime on a more continuous basis, a roster of experts was established, including 180 experts in 52 countries which are regularly providing information as to the role of criminal law in the protection of the environment and the feasibility of the implementation of certain projects in their respective countries and regions.

46. In view of the work done in the field of the protection of the environment, the Commission may wish to provide guidance for further action and to consider the following activities:

(a) Assessing the priority to be given to the topic of criminal law in the protection of the environment at the future sessions of the Commission, in order to decide whether to include the issue as a standing item of its agenda of work, and whether to request the Secretary-General to report on the issue to future sessions of the Commission;

(b) Identifying a workshop or a seminar to be convened in order to continue research on the subject;

(c) Taking note of the "Monograph on capacity building in criminal enforcement of environmental law", and requesting the Secretary-General to insure its widest distribution;

(d) Reaffirming the importance of operational activities in the field of environmental criminal protection.

B. The crisis of law and order in new democracies

47. The end of the cold war precipitated the emergence of new democracies not only in eastern Europe and th e former Union of Soviet Socialist Republics (USSR), but also throughout Africa and Latin America. In man y countries, the fledgling democracies and their institutions are weak. There has been in many places a sharp decline in respect for Government, owing in part to the inexperience of the new leadership. The situation in thos e democracies is compounded by the sharp fall in standards of living and the general economic dislocation that has occurred in many places.

48. One of the greatest challenges facing the new democracies relates to their capacity to maintain law and order. The political and economic turmoil of the last five years has increased the levels of crime generally and organized crime in particular. In some places, organized crime has grown so strong that its strength puts into question th e capacity of Governments to function in the interest of all citizens. In some instances, the police and the courts are still seen to be tainted by the former regime, and are therefore not completely trusted by ordinary citizens. In others, the police and the courts are seen to be ineffective in controlling crime. In many cases, because of the genera l economic downturn, States may not have adequate funds to keep talented people working for Government, whether in the police, the courts or the prison service. In virtually all such situations, funds are lacking for training or new equipment, resulting, on the whole, in a widening disparity in resources between organized crime and the police and the courts.

49. An example of the efforts undertaken so far is the assistance provided to CIS member States. It should b e recalled that since the collapse of the former USSR, the Russian Federation and the other former Soviet republics have been experiencing an explosion in crime, especially organized crime. The liberalization of the market presented good opportunities for many groups to enter into organized crime activities. Businesses, both legal and illegal, are being taken over by mafia-type organizations, at an alarming rate. The growth of organized crime corrupts an d threatens the Government, national and international security and the rule of law.

50. In an attempt to anticipate the difficulties a country in transition would encounter in the field of crime control, the Division, already in the initial stage of change in the former USSR, made efforts to provide assistance to it and, subsequently, to the Russian Federation and other CIS member States.

51. In October 1989, a memorandum of understanding regarding cooperation in the field of crime prevention and criminal justice was signed with the USSR Ministry of Internal Affairs. The Director-General of the United Nations Office at Vienna held several meetings with the Minister of Internal Affairs of the USSR and subsequently of the Russian Federation in Moscow and at Vienna, during which follow-up measure s to implement the memorandum were discussed and agreed upon. International seminars on crime prevention strategies and control of organized crime were organized jointly by the United Nations and the Ministry of Interior of the Russian Federation and held in that country. UNICRI and the European Institute for Crime Prevention and Control, affiliated with the United Nations, conducted mutual research in the areas of urban crime, latent cri me, crime prevention and control of organized crime.

52. In accordance with the request of the State Law Department of the administration of the President of th e Russian Federation, technical assistance has been provided to that country in connection with judicial reform. The Division offered comments and advice on the draft legislation for the reform of the judiciary. On the basis of the results of a needs assessment mission, project documents were prepared and letters inviting contributions were sent to interested countries. Two donor meetings were held. The positive reaction of the Governments of Austria and France resulted in the training of a number of judges of the Russian Federation. Assistance in the computerization of courts is being provided by an expert of the European Institute, and the Government of Canada is considering a contribution for the training of prosecutors and lawyers. However, the lack of further contributions and certai n internal political difficulties in the Russian Federation have not allowed project implementation to advance.

53. The Division rendered advisory services in connection with the new Criminal Code and Code of Crimina l Procedure drafted in Belarus and the proposed Criminal Code of Ukraine. Training courses for police officers i n charge of drug control units in Ukraine and Belarus were undertaken j ointly with UNDCP. Additional activities were carried out to assist the CIS member States in their fight against organized crime.

54. In an effort comprehensively to assess the most pressing needs of those States, particularly with a view to coordinating existing assistance efforts, a number of meetings were organized. Thus, a seminar on fundamental issues regarding the criminal justice system for a nation in transition from a single-political-party system to a multi-party system was held at Trenčianske Teplice, Slovakia, in September and October 1992, organized by the European Institute in cooperation with the Division, the Law Institute of the Ministry of Justice of Slovakia and the Society for the Reform of Criminal Law. In January 1992, the Division contributed to the conference on assistance to the former USSR, convened by the Government of the United States of America at Washington, D.C., by formulating measures to be urgently taken in the field of crime prevention and criminal justice, including control of organized crime, efficient and fair functioning of the criminal justice system, establishment of national crime prevention councils, training of law enforcement officials and non-violent conflict resolution. In February 1993, the Division, together with the European Institute, organized and hosted a meeting on practical assistance to countries of central and eastern Europe. The participants included representatives of donor countries, as well as intergovernmental and non-governmental organizations known to have a particular interest in technical cooperation activities and the provision of technical assistance to countries of central and eastern Europe in the field of crime prevention and criminal justice. In April 1994, the Division jointly organized with the European Institute a meeting on the United Nations crime prevention and criminal justice programme, hosted by the Ministry of Justice of Hungary. The meeting, which followed up the informal meeting of donor countries and organizations organized by the Division in February 1993 at Vienna regarding technical cooperation activities and assistance to countries of central and eastern Europe, was intended to present to the delegates of those countries the new orientation of the programme and its operational activities. The meeting was also meant to collect information on technical cooperation activities currently under way or planned in the countries of central and eastern Europe in order to facilitate coordination, and to explore the needs and priorities of these countries in the field of crime prevention and criminal justice.

55. In an effort to make the most rational use of scarce resources, and given the relevance of crime prevention and criminal justice issues to the reform process, the Division has taken steps to strengthen its cooperation with UNDP. For example, as earlier noted, the Division and the interregional advisers participated in the UNDP missions to Kyrgyzstan to assess technical assistance requirements in the area of democracy, governance and participation. The Division is organizing, in cooperation with the Organization for Security and Cooperation in Europe and UNDP, a subregional seminar entitled "Drugs and crime: new challenges" for the five CIS member States in Central Asia. The seminar, which will take place at Bishkek, Kyrgyzstan, from 10 to 12 June 1996, will deal with the following issues: national reports on drugs and organized crime, including a review of existing legislative and institutional frameworks for prevention and control; impact of drugs and organized crime on security, democracy and economic reform; prevention and control of corruption; money-laundering; legal and institutional reform; and regional and international cooperation: conclusions and recommendations.

56. In view of the renewed discussion of the problem of transnational organized crime at the summit of the seven major industrialized countries (Group of Seven), held at Halifax, Nova Scotia, Canada, the Division would be ready to cooperate with the established group of senior experts in identifying significant gaps and options for improved coordination and to propose practical action to fill such gaps. In this context, the Division could also be involved in technical assistance and advisory services to be provided to the Russian Federation and other emerging democracies, especially in connection with the formulation of special projects in good governance. In fact, several international funding agencies (such as the World Bank and UNDP) are currently financing projects for promoting good governance in developing countries, countries in transition and war-torn countries. A properly and democratically functioning criminal justice system is essential for good governance. Considering the scarcity of resources available, the consequent need of avoiding duplication of efforts as well as the mandate of the crime prevention and criminal justice programme, it would be advisable for the expertise of the programme to be systematically developed in the planning as well as in the implementation of projects aimed at re-establishing good governance.

C. The serious need for assistance in the area of corrections

57. The third area in which there are considerable needs but virtually no funding is that of prisons and corrections. Although some funding is being provided by donors for the renewal of prison buildings, for example in Haiti (assisted by USAID through UNDP) or Albania (assisted by the European Union), these are exceptions. Apart from the important work which the International Committee of the Red Cross continues to do by providing basic human comforts to prisoners such as blankets, very little is being provided by donors. So far, the Division has not been successful in attracting financial support for much-needed renewal of prison facilities in Uganda. What is needed is the minimum requirements to ensure proper sanitation. Everywhere, there is very little or no money for the renewal or the upgrading of staff. Together with ISPAC, the crime prevention and criminal justice programme has made efforts to meet some of the needs by giving regional training courses to the correctional services of several countries.

58. In spite of the 40-year existence of the Standard Minimum Rules for the Treatment of Prisoners, the situation of prisoners worldwide seems to have deteriorated rather than improved. The area of prisons and correctional services is generally one which requires a great deal of attention. The Division, along with ISPAC and some non-governmental organizations, is attempting to meet the enormous demands in this area.

D. The reluctance of aid agencies and the growth of ad hoc initiatives

59. Aid agencies everywhere have been slow in funding activities in justice. There are many reasons for this, including the fact that aid budgets are shrinking, and in a world of shrinking budgets, established programmes are invariably protected at the expense of new ones. Another reason is that the principal object of most development aid at present is the eradication of poverty. Furthermore, most aid programmes work on long lead times of effectively three to eight years. Accordingly, it is usually difficult to mobilize large amounts of money to deal with an emerging area such as crime prevention and criminal justice, especially when budgets are being cut. There is also a considerable residue of lingering doubt about the advisability of strengthening the operational capacity of a "repressive service" such as the police, especially where the democratic tradition is weak. For any or all of those reasons, aid agencies have been very slow to fund any activity in this field.

60. Notwithstanding the reluctance of aid agencies to fund assistance in crime prevention and criminal justice, new democratic Governments have received help. In the case of eastern Europe and CIS, the need for assistance has been satisfied through the intervention of police agencies in donor countries with their foreign ministries. The police agencies have been successful in making the case that the threats posed to the populations of western Europe and North America by the new organized crime groups in eastern Europe and CIS are serious enough to warrant a dramatic increase in funding of international police training programmes to bolster the police services of those countries in transition. There has been considerable growth in bilateral activity in this area over the last five years. The growth has been concentrated in the area of police training, and has been primarily directed towards eastern Europe and CIS. The funding has usually come from aid budgets, but is administered either by the police agency of the donor country alone, or with an office in the foreign ministry or aid agency. The amounts that have been expended over the last five years are considerable, at least when judged against previous levels of assistance in this area. The aid in this area has been for the most part uncoordinated (and in some cases competing), as the police agencies of each of the donor countries seek to establish through training courses their own network of contacts in the police agencies of the countries of eastern Europe and CIS. After five years of experience and experimentation, there is a sense that it may be appropriate to seek to coordinate and thereby rationalize the aid being provided in this area. The Division may have an important role to play in facilitating this coordination.

61. The amounts provided for court reform under various programmes aimed at reinforcing the rule of law have been smaller. These programmes have for the most part been bilaterally funded and driven by non-governmental organizations, such as the American Bar Association, in donor countries. Some of the aid has been coupled with assistance for legislative reform, although the amounts dedicated to criminal law have been apparently small.

E. The changing functions of the interregional advisers

62. In the past, the services provided by the Division, and particularly by the interregional advisers have consisted mainly in advisory services, revisions of national legislation and conducting training seminars. The needs of

developing countries and countries in transition have changed. In order to face the challenges at the national, regional and international levels, the activities of technical assistance in crime prevention and criminal justice need to be conceived as part of the whole development process. The time has come for including the improvement or rebuilding of the criminal justice system in the formulation of national development policies. As underlined in the report of the Secretary-General on progress made in the implementation of General Assembly resolution 49/158, "the failure to incorporate crime prevention considerations in national planning has contributed to dysfunctional development, compounding inequities and precluding the enjoyment by all the people of the fruits of progress" (A/50/432, para. 8).

63. One of the first consequences of the recent changes is the need to reorient the services provided by the interregional advisers for crime prevention and criminal justice. The requests received in the last two years not only call for needs assessment missions or advisory services, but - increasingly - for operational activities to be planned and carried out by the Division. However, the observations made in the previous report of the Secretary-General to the Commission on technical cooperation and advisory services still apply: "In spite of the importance of training and advisory missions, the operational value of the programme will be judged on its capacity to formulate and implement technical cooperation projects, in order to satisfy the needs and expectations of Member States" (G/CN.15/1995/6, para. 65).

64. During the period under review, for example, the Division was asked to prepare the following project proposals, which have been sent to national Governments and international funding agencies for their consideration: (a) a project on the implementation in Albania of United Nations and other relevant European standards and norms in the area of juvenile justice; (b) a project for modernizing the penitentiary system in Albania by bringing it into line with the Standard Minimum Rules for the Treatment of Prisoners and with other European standards; (c) a project for improving good governance in relation to crime prevention and administration of justice in the former Yugoslav Republic of Macedonia; (d) a project for the modernization and reform of law measures and institutions dealing with the sentencing and disposition of criminal offenders in the countries of the English-speaking Caribbean to ensure their greater conformity with the United Nations standard minimum rules for the treatment of offenders; (e) a project on crime prevention and the rehabilitation of the correctional system in the area of Rio de Janeiro, Brazil; (f) a project to improve the cooperation between the judiciary and the penitentiary systems in the State of Rio Grande do Sul, Brazil; and (g) a project for a training seminar for prison officials in the CIS member States in central Asia.

65. Members of the Commission have repeatedly called for the programme to become more operational. Because of its strengthened capacity for technical cooperation, the Division has been able to formulate a number of well-conceived projects, which, however, need now to be implemented. What is required is the necessary funds to execute them. To that effect, Member States could work with the Division to ensure that adequate funding is obtained from appropriate agencies for such worthwhile projects by using the Crime Prevention and Criminal Justice Fund as an instrument for doing so.

IV. CLEARING-HOUSE FUNCTION OF THE CRIME PREVENTION AND CRIMINAL JUSTICE DIVISION

66. Relevant information on technical assistance activities globally is crucial to the more efficient use of technical assistance resources in the field of crime prevention and criminal justice. Uncoordinated duplication of efforts is currently widespread. The Economic and Social Council, in its resolution 1994/22 of 25 July 1994, requested the Secretary-General to establish a database on technical assistance, integrating needs of Members States, particularly developing countries. In addition, the Secretary-General was requested, in Council resolution 1995/12, subject to the availability of extrabudgetary funds, to establish a regional database for central and eastern Europe.

67. In pursuance of the former mandate, efforts to collect the relevant information for the establishment of the database continued within existing resources. A form for collection of the relevant information was sent to all Member States, attached to a note verbale of the Secretary-General of 4 October 1995. At the time of writing of the present report, responses had been received from the following 23 States: Austria, Barbados, Cambodia, Canada,

Finland, Greece, Holy See, Iraq, Japan, Malta, Namibia, Norway, Oman, Panama, Saudi Arabia, Slovenia, Sudan, Syrian Arab Republic, Sweden, the former Yugoslav Republic of Macedonia, Thailand, Turkey and Venezuela. Five responses presented information from donor countries, seven from recipients, and eight countries claimed to have neither received nor given assistance in this field. In addition, responses were received from three countries detailing their needs for technical assistance in crime prevention and criminal justice.

68. Information was provided on 56 technical assistance projects, not including assistance to central and eastern Europe. Of these, 45 consisted in the provision of seminars, training courses or workshops, of which 32 lasted one week or less. Six of the remaining 11 projects related to missions with the objective of signing agreements on mutual assistance in criminal matters, study visits or exchange of information. Two projects were presented as long-term assistance by the Government of Japan, with a project cycle of two years, in institutional reform, including provision of equipment, and in the provision of advisory services. Three projects related to the provision of assistance in the computerization of criminal justice, as well as the provision of computer and radio communications equipment. Two of those projects were implemented as assistance to the Namibian police by Germany and the United Kingdom of Great Britain and Northern Ireland.

69. Geographically, seven projects were not country- or region-specific, four were regional (two for Asia and the Pacific and two for Latin America and the Caribbean) and four subregional (two for southern Africa, one for the Caribbean and one for southern Europe). The remaining 41 projects were country-specific; of these, 28 were implemented in assistance to seven African countries in southern, central and eastern Africa, seven in assistance to five Asian countries, and six in assistance to countries of Latin America and the Caribbean. Of the country-specific projects implemented in Africa, 22 were seminars of one week or less in duration, organized by the Raoul Wallenberg Institute of Human Rights and Humanitarian Law. The Institute also provided information about two subregional seminars for States of southern Africa, as well as two seminars addressed to participants from developing countries in general. Of the country-specific information given on projects implemented in Asian countries, four were provided by Japan, which also reported on two regional projects in the Asia and the Pacific region and in the Latin America and the Caribbean region, as well as five projects that were not country- or region-specific.

70. The European Institute for Crime Prevention and Control, affiliated with the United Nations offered its services to establish and manage the regional database for central and eastern Europe. Extrabudgetary funding was provided to finance the establishment of the database. An account on the development of this project prepared by the European Institute will be presented to the Commission at its fifth session.

71. Measures to avoid duplication of efforts have been undertaken. All information provided to the European Institute will be duly submitted to the Division once processed and analysed. No information pertaining to central and eastern Europe will be processed by the Division. Information received in response to the note verbale of the Secretary-General from Member States on activities carried out in this subregion was therefore communicated to the European Institute for further processing.

72. Much more information is available through other sources, including other databases. It has, in this context, been suggested by one Government that the crime prevention and criminal justice programme enter into closer cooperation with UNDCP, and that the mechanism developed by UNDCP for eastern Europe, the Baltic States and CIS be applied also with regard to the wider area of crime prevention and criminal justice. Information would, in order to avoid duplication, only be submitted to UNDCP. The Division has, however, because of a lack of financial and human resources, so far been unable to set up the appropriate mechanisms for the exchange and processing of such information on a regular basis with UNDCP or with other entities. A fully operational clearing-house in the area of crime prevention and criminal justice should, all the same, take full advantage of such possible benefits from coordination.

V. THE CRIME PREVENTION AND CRIMINAL JUSTICE FUND

73. In addition to increased regular budget allocations, which are still only a fraction of the funds that are required, the programme has further developed the Crime Prevention and Criminal Justice Fund, so that it could become a more useful instrument for Member States to fund, or for supporting technical cooperation activities of the programme. The Crime Prevention and Criminal Justice Fund was established in 1967, pursuant to Council resolution 1086 (XXXIX) of 30 July 1965.*

74. The Fund has been used to finance such operational activities as needs assessment missions to Cambodia and the Russian Federation; formulation of technical cooperation projects for those two countries; partial project execution (preliminary phase) for Cambodia; organization of training activities for civilian police of the United Nations Protection Force (UNPROFOR) in Austria, as well as the provision of advisory services and training in, *inter alia*, Burkina Faso, Burundi, Rwanda and Gaza for the Police of the Palestinian Authority; reprinting of the *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice*; other publications, including the Handbook for United Nations Civilian Police (the "blue book") and the Manual on Domestic Violence; and the engagement of consultants for input to project formulation and advisory services.

75. Contributions to the Fund can be either general-purpose or earmarked for specific operational activities or for operational activities in a specific region. In the biennium 1994-1995, the following States contributed to the Crime Prevention and Criminal Justice Fund:** Italy,*** 617,800 United States dollars (US$); Japan,**** $159,895; France,** $123,877; Sweden,*** $34,535; Austria $30,646 and Argentina, Belgium, Brazil, Canada, Germany, Oman, Republic of Korea and Sri Lanka, all less than $25,000.

76. Some Member States continued to support the United Nations crime prevention and criminal justice programme by providing associate experts (Germany, Italy, Japan, Republic of Korea and Sweden) and consultants (Austria, France and United Kingdom).

VI. SUCCESSION OF STATES IN RESPECT OF INTERNATIONAL TREATIES ON COMBATING VARIOUS MANIFESTATIONS OF CRIME****

77. In its resolution 4/1 of 9 June 1995, entitled "Succession of States in respect of international treaties on combating various manifestations of crime", the Commission emphasized the special importance of the consistent and effective implementation of international instruments on combating crime, and called upon successor States to confirm to appropriate depositories that they will continue to be bound by obligations under relevant international treaties on combating various manifestations of crime, to which their predecessor States were parties. It also urged the successor States to consider becoming parties to the international treaties on combating crime, to which their predecessor States were not parties, and requested the Secretary-General to render, upon request, advisory services

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*By approving resolution 1086 (XXXIX), the Council decided on the establishment of the United Nations Trust Fund for Social Defence. In accordance with paragraph 44 of the statement of principles and programme of action of the United Nations crime prevention and criminal justice programme (General Assembly resolution 46/152, annex, of 18 December 1991), the fund was renamed the United Nations Crime Prevention and Criminal Justice Fund.

**The figures provided include both contributions and pledges. Not all pledges had been received by 30 April 1996.

***Half of the annual contribution of Italy is used to support the functioning and operating of ISPAC.

****The contribution of Japan was earmarked for a project on the control of firearms.

**The contribution of France was earmarked for the preparation of the Ninth Congress and for a technical cooperation project in Burkina Faso.

***The contribution of Sweden was earmarked for two training courses for the Palestinian Police.

****According to article 2, paragraph (b), of the Vienna Convention on Succession of States in respect of Treaties (1978), "succession of states" means the replacement of one State by another in the responsibility for the international relations of territory. See *United Nations Conference on the Succession of States in respect of Treaties, 1977 session and resumed session 1978, Vienna, 4 April-6 May 1977 and 31 July-23 August 1978, Official records, Vol. III: documents of the Conference* (United Nations publication, Sales No.E.79.V.10).

with regard to the legal aspects of succeeding to or becoming party to international treaties on combating crime to successor States that are Members of the United Nations.

78. The Commission, in the same resolution, further requested the Secretary-General to include in his report on technical cooperation to be submitted to the Commission at its fifth session information received from Member States on the progress achieved in that area. Pursuant to this resolution, the Secretary-General, on 14 August 1995, sent a note verbale to Member States and United Nations bodies asking them to provide relevant information.

79. By 1 March 1996, the following States had replied: Australia, Austria, Bahrain, Bangladesh, Belarus, Bosnia and Herzegovina, Croatia, Holy See, Italy, Japan, Luxembourg, Malta, Qatar, Republic of Korea, Spain, Thailand, United Kingdom, United States and Yemen. Replies were also received from the United Nations Office of Legal Affairs, the Centre for Human Rights of the United Nations Office at Geneva and UNDCP.

80. In the answers received, some States observed that the issue of the opportunity of elaborating international instruments, such as a convention or conventions against organized transnational crime, was under discussion by Member States, in pursuance of the recommendations of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime approved by the General Assembly in its resolution 49/159 of 23 December 1994.* Since there was currently no convention or any other universal international treaty devoted specifically to matters of crime prevention and criminal justice in general, or specifically to organized transnational crime, only general comments on the importance of the issue could be provided, without any specific reference to international instruments related to law enforcement matters.

81. One successor State reported that it adhered to all international treaties, and made proposals to the police of other countries to sign new bilateral agreements, particularly on cooperation in combating all types of transnational crime, such as organized crime, drug trafficking and economic and financial crime. A few Governments replied that they were conforming to the rules and obligations emerging from relevant international treaties on combating various manifestations of crime.

82. One Government took the position, consistent with article 34 of the 1978 Vienna Convention on Succession of States in Respect to Treaties, that the successor States are bound by obligations of their predecessor States when a single State breaks up into two or more successors. With regard to multilateral activities intended to achieve the widest possible adherence to international treaties related to law enforcement matters, that Government supported the continuing efforts of the Secretary-General to provide technical assistance to successor States concerning accession or confirmation of their succession to such treaties. It also believed that such technical assistance should promote accession or confirmation of succession to all of the multilateral (both United Nations and regional) treaties involving law enforcement matters. This would include, at a minimum, the following instruments: Single Convention on Narcotics Drugs of 1961[5] as amended by the 1972 Protocol;[6] Convention on Psychotropic Substances of 1971;[7] United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988;[8] Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 1970;[9] Convention on Offences and Certain Other Acts Committed on Board of Aircraft of 1963;[10] Convention for the Suppression of Unlawful Seizure of Aircraft of 1970;[11] Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation of 1971[12] and the 1988 Protocol supplementary to that Convention;[13] Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents of 1973;[14] International Convention against the Taking of Hostages of 1979;[15] Convention on the Physical Protection of Nuclear Material;[16] Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation of 1988,[17] with the related Protocol;[18] Slavery Convention signed at Geneva on 25 September 1926 and amended by the Protocol done at the Headquarters of the United Nations, New

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*See also Council resolution 1995/11 of 24 July 1995, in which the Council requested the Secretary-General to provide advisory services and technical assistance to requesting Member States in the implementation of the Naples Political Declaration and Global Action Plan.

York, on 7 December 1953;[19] Convention on the Prevention and Punishment of the Crime of Genocide of 1948; [20] and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment of 1987. [21]

83. Several respondents informed the Secretariat that since the issue of the succession did not apply to thei r countries there was no need to provide further information or comment.

84. The United Nations Office of Legal Affairs confirmed that Commission resolution 4/1 is consistent with the depository practice of the Secretary-General with regard to the succession of States to treaties. In accordance with this practice, a successor State is considered to be a party to treaties concluded by the predecessor State only upon a formal notification of succession on its part with explicit reference to the treaties in respect to which it wishes to succeed.*

85. Since 1993, the Commission on Human Rights in its resolutions 1993/23 of 5 March 1993, 1994/16 o f 25 February 1994 and 1995/18 of 24 February 1995 called on successor States to confirm to appropriat e depositaries that they continued to be bound by obligations under international human rights treaties and urged those that had not yet done so to ratify or accede to those human rights treaties to which the predecessor States had not been parties. The Commission requested the human rights treaty bodies to consider the continuing applicability of the respective international human rights tre aties to successor States, with the aim of assisting them in meeting their obligations.

86. Measures undertaken by various human rights treaty bodies included requests to successor States to submit special repc_rts in respect of events affectin g human rights after their independence. The successor States concerned were also encouraged to confirm their succession to the human rights obligations undertaken by the predecesso r States and to accede to the conventions if predecessor States had not been parties to them. The chairpersons of the human rights treaty bodies, at their fifth meeting, held from 19 to 23 September 1994, noted with concern that a number of successor States had not yet formally confirmed to the Secretary-General their succession to the treaties. The chairpersons emphasized, however, that they were of the view that successor States were automatically bound by obligations under international human rights instruments from their respective dates of independence, and that observance of the obligations should not depend on a declaration of confirmation made by the Government of the successor State.

87. The status of succession, accession or ratification of human rights treaties by the new States successors to the former Yugoslavia, the former USSR and the former Czechoslovakia is shown in the annex to the report of th e Secretary-General on succession of States in respect of international human rights treaties (E/CN.4/1995/80). I t contains information in relation to the following conventions: International Covenant on Civil and Political Rights and Optional Protocol (General Assembly resolution 2200 A (XXI), annex, of 16 December 1966); International Covenant on Economic, Social and Cultural Rights (General Assembly resolution 2200 A (XXI), annex, of 1 6 December 1966); International Convention on the Elimination of All Forms of Racial Discrimination (Genera l Assembly resolution 2106 A (XX), annex, of 21 December 1965); Convention on the Elimination of All Forms of Discrimination against Women (General Assembly resolution 34/180, annex, of 18 December 1979); Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolutio n 39/46, annex, of 10 December 1984); Convention on the Rights of the Child (General Assembly resolution 44/25, annex, of 20 November 1989); Convention on the Prevention and Punishment of the Crime of Genocide (General Assembly resolution 260 A (III), annex, of 9 December 1948); Convention on the Non-Applicability of Statutory

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*The Office of Legal Affairs keeps an updated record of the status of international treaties deposited with the Secretary-General, including the following conventions on penal matters: (a) International Convention against the Taking of Hostages (General Assembly resolution 34/146, annex, of 17 December 1979; (b) International Convention against the Recruitment, Use, Financing and Training of Mercenaries (General Assembly resolution 44/34, annex, of 4 December 1989); and (c) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (see United Nations, *Treaty Series*, vol. 1035, No. 15410).

Limitations to War Crimes and Crimes against Humanity (General Assembly resolution 2391 (XXIII), annex, of 26 November 1968).

88. According to the information provided by UNDCP, only five of the newly independent States have deposited notifications of succession to the Single Convention on Narcotic Drugs of 1961, and have succeeded to the Convention on Psychotropic Substances of 1971, to that Convention as amended by the 1972 Protocol, and to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988. The official records on the adherence of States to the drug control conventions are maintained at the United Nations Office of Legal Affairs.[22]

89. With regard to the issue of the provision of advisory services to successor States raised in paragraph 3 of Commission resolution 4/1, the Office of Legal Affairs noted that it had provided informal advice on the succession of States in respect of international treaties generally, and, in particular, with regard to successor States of the former USSR. It stood ready to provide such assistance, either through the Commission or individually to States, as required. The Centre for Human Rights was planning two regional meetings on obstacles that States may encounter in considering ratification of, or accession or succession to, international human rights instruments. States which emerged from the former USSR would be invited to participate in those meetings. In response to requests of States and as part of its legal advisory project, UNDCP has assisted States, including successor States, in developing the legislative framework necessary to become parties to and implement fully the international drug control conventions.

VII. CONCLUSIONS AND ACTION REQUIRED OF THE COMMISSION

A. Conclusions

Collaboration with other United Nations entities, specialized agencies, institutes and non-governmental organizations

90. Given the current resource constraints and the need for effective coordination and cooperation, consultations between the Division and DDSMS, the Centre for Human Rights, the United Nations Centre for Human Settlements (Habitat), UNDCP, UNDP, the World Bank, UNICRI and the institutes comprising the United Nations crime prevention and criminal justice programme network need to be strengthened and rationalized. Likewise, cooperation with non-governmental organizations active in the field of technical assistance must be expanded as a key strategy for the future of the programme.*

Needs assessment and project formulation

91. Needs assessment missions so far have been one of the main activities of the advisory services of the crime prevention and criminal justice programme. They have proved to be an effective tool in analysing and more precisely defining the requirements for the various components of the criminal justice system of a country. Since there is an urgent need to go beyond a mere analysis, the formulation of projects aimed at improving or rebuilding the criminal justice system of a country and at improving its capacity to fight crime has become another important area of activities. In most cases, obtaining the support and assistance of funding agencies and donor countries in the implementation of those projects will be imperative.

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*In this regard, it is important to recall that the World Conference of the Asia Crime Prevention Foundation, held at Bangkok from 15 to 17 November 1995, decided that the Foundation, in cooperation with the Division, should sponsor a comprehensive technical cooperation and assistance programme with special emphasis on: institutional reform and upgrading of criminal justice institutions; organization of training courses and seminars aimed at human resources development; and formulation and implementation of technical assistance projects in developing countries.

Fellowship programme

92. The results of the new fellowship programme in crime prevention and criminal justice are promising. On the basis of experience with fellows mainly carrying out research and studies with the Division at Vienna, the next cycle will cover a wider range of external activities, including: visiting and working in institutions such as national research institutes, in order to allow for comparative studies; gaining first-hand experience at judicial training centres of different countries; and doing research and working with other United Nations entities in areas of cooperation between those entities and the crime prevention and criminal justice programme.

B. Action required of the Commission

93. In order to meet the challenge posed both by the notable increase in requests to the crime prevention and criminal justice programme for technical assistance and by the changed nature of the requests, calling for more operational activities, the Commission may wish to consider:

(a) Strengthening cooperation between the programme and its traditional and new partners (DDSMS, UNDP, the Centre for Human Rights, the United Nations Centre for Human Settlements (Habitat), UNDCP, the World Bank, UNICRI, the network of institutes and relevant non-governmental organizations). In this connection, the Commission may wish to invite the United Nations entities and agencies working in the areas of good governance and institution-building to consult with the crime prevention and criminal justice programme when their projects deal with areas within the mandate of the programme;

(b) Reaffirming the high priority of technical cooperation, in particular operational activities, within the crime prevention and criminal justice programme, and calling for the further development and strengthening of the operational capacity of the programme;

(c) Reaffirming the need to regard technical assistance activities in the field of crime prevention and criminal justice as part of the whole development process of a country;

(d) Inviting Governments, specialists and consultants to contribute expert assistance during needs assessment and advisory missions and for project implementation;

(e) Recommending to the Secretary-General to make further use of the capacity of the crime prevention and criminal justice programme in the context of peace-keeping operations, including training courses for peace-keeping police, needs assessment missions and advisory services for rebuilding national structures.

94. With respect to the role of criminal law in the protection of the environment, while the Secretary-General will continue to give effect to the various provisions of Council resolution 1995/27, cooperating and coordinating with relevant institutes and programmes, the Commission may wish to take note of the activities initiated by the Secretary-General, as described in paragraphs 42 to 46 of the present report, and provide further guidance on the future course of action in this important field.

95. In view of the limited resources available under the regular budget, of the increase in the number of requests for assistance from States and of the current financial crisis of the Organization, the Commission may wish:

(a) To include as a separate item on the agenda of its sixth session the issue of the funding of international technical assistance in the areas of crime prevention and criminal justice. Member States would be invited to include in their delegations not only officers of their ministries responsible for criminal justice, but also those of government ministries or departments involved in the funding of international assistance generally, or in delivering international technical assistance in this particular area. UNDP, the World Bank and the regional development banks would be specifically invited to attend the sixth session of the Commission and to outline their approach to funding in this area;

(b) To recommend to Member States to continue to provide extrabudgetary contributions, both general - purpose and earmarked, to the United Nations Crime Prevention and Criminal Justice Fund. The present repor t outlines a series of worthy projects for which immediate funding is being sought. Member States should take steps to facilitate consultation betwe en their funding agencies and the Division, for example, by designating a focal point to promote such consultation on the subject of project funding;

(c) To advise the Division on the ways in which the Secretary -General, in accordance with Council resolution 1994/22, should provide the United Nations crim e prevention and criminal justice programme with adequate human and financial resources to support its technical assistance activities and advisory services and to strengthen thei r operational capacity.

Notes

[1]*Report of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Cairo, 29 April-8 May 1995* (A/CONF.169/16/Rev.1), paras. 262-271. The report will subsequently be issued as a United Nations sales publication.

[2]Ibid., chap. I, resolution I, sect. I.

[3]Boutros Boutros-Ghali, *An Agenda for Development, 1995* (United Nations publication, sales No. E.95.I.16), para. 29.

[4]See *First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August-3 September 1955: report prepared by the Secretariat* (United Nations publication, Sales No. 1956.IV.4), annex I, sect. A; see also *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice* (United Nations publication, Sales No. E.92.IV.1), sect. C.15.

[5]United Nations, *Treaty Series*, vol. 520, No. 7515.

[6]Ibid., vol. 976, No. 14152.

[7]Ibid., vol. 1019, No. 14956.

[8]Official Records of the *United Nations Convention for the Adoption of a Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 25 November-20 December 1988, vol. I* (United Nations publication, Sales No. E.94.XI.5).

[9]United Nations, *Treaty Series*, vol. 823, No. 11806.

[10]Ibid., vol. 704, No. 10106.

[11]Ibid., vol. 860, No. 12325.

[12]Ibid., vol. 974, No. 14118.

[13]International Civil Aviation Organization, document DOC 9518.

[14]Ibid., vol. 1035, No. 15410.

[15]General Assembly resolution 34/146, annex, of 17 December 1979.

[16]United Nations, *Treaty Series*, vol. 1456, No. 24631.

[17]International Maritime Organization, document SUA/CONF/15/Rev.1.

[18]Ibid., document SUA/CONF/16/Rev.2.

[19]Ibid., vol. 212, No. 2861.

[20]General Assembly resolution 260 A (III), annex, of 9 December 1948.

[21]General Assembly resolution 39/46, annex, of 10 December 1984.

[22]See *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 1994* (United Nations publication, Sales No. E.95.V.5).

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Item 3 of the provisional agenda*

REVIEW OF PRIORITY THEMES

Establishment of a regional centre for training and research in crime prevention and criminal justice for the Mediterranean States

Note by the Secretary-General

1. On the recommendation of the Commission on Crime Prevention and Criminal J ustice, the Economic and Social Council, in its resolution 1995/27 of 24 July 1995, section I, paragraph 8, decided to establish an open-ende d intergovernmental working group during the first two days of the fifth session of the Commission, to study, with the assistance of the Secretary-General, the prop osal for the establishment of a regional centre, to be based at Cairo, for training and research in crime prevention and criminal justice for the Mediterranean States.

2. The Secretary-General has the honour to transmit to the members of the Commission the attached note verbale dated 27 December 1995 from the Permanent Mission of Egypt to the United Nations (Vienna) requesting tha t consideration of the above-mentioned matter be deferred. All Permanent Representatives of the Group of th e Mediterranean States have been informed of the request contained in the note verbale.

3. It should be noted that the proposed organization of work and timetable of the fifth session of the Commission, as contained in annex II to the provisional agenda (E/CN.15/1996/1), were prepared on the assumption that th e Commission would agree to the request of the Government of Egypt to defer consideration of the proposal t o establish a regional centre, and that, consequently, the establishment of the intergovernmental working grou p intended to consider the matter would also be deferred.

*E/CN.15/1996/1.

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*Annex**

NOTE VERBALE DATED 27 NOVEMBER 1995 FROM THE PERMANENT MISSION OF EGYPT TO THE UNITED NATIONS (VIENNA) ADDRESSED TO THE UNITED NATIONS OFFICE AT VIENNA

The Permanent Mission of the Arab Republic of Egypt presents its compliments to the United Nations Office at Vienna, Crime Prevention and Criminal Justice Branch, and with reference to the Economic and Social Council's resolution number 1995/27, section I, paragraph 8, has the honour to request the Branch to defer the consideration of the issue of "Establishing a regional centre for training and research in crime prevention and criminal justice for the Mediterranean States" during the fifth session of the Commission on Crime Prevention and Criminal Justice, due to be held in May 1996.

The Permanent Mission of the Arab Republic of Egypt avails itself of this opportunity to renew to the United Nations Office at Vienna, Crime Prevention and Criminal Justice Branch, the assurances of its highest consideration.

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REVIEW OF PRIORITY THEMES

Children as victims and perpetrators of crime

Report of the Secretary-General

Summary

The present report provides an overview of some activities undertaken by Governments and non-governmental organizations with regard to the elimination of violence against children committed by tourists in the context of child prostitution. It also provides a summary of the views expressed by Member States on the establishment of a convention on the illicit traffic in children. Seventeen States supported the elaboration of such a convention. One considered the exercise not to be fruitful. A global comprehensive approach against trafficking in children requires more information on this phenomenon, such as the approximate number of victimized children and the routes being used for such trafficking.

The present report also outlines possible ways to elaborate a programme of action to promote the effective use and application of international standards and norms in juvenile justice. This would entail developing an inventory of current needs of Member States, as well as projects undertaken or envisaged by Governments, non-governmental organizations and agencies at the regional and international levels. It would also entail establishing a mechanism to develop and implement technical assistance projects in juvenile justice, in cooperation with the Committee on the Rights of the Child, the Centre for Human Rights, the Crime Prevention and Criminal Justice Division, the United Nations Children's Fund and possible donor agencies. Such a mechanism should ensure that the international community is in a position to adequately respond to requests by Member States for assistance in the implementation of the Convention on the Rights of the Child and other international standards and norms in juvenile justice.

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INTRODUCTION

1. The Commission on Crime Prevention and Criminal Justice, at its third session, adopted resolution 3/1, on violence against women and children. Pursuant to a request contained in that resolution, the Secretary-General submitted to the Commission at its fourth session a report on activities of United Nations bodies and institutions with regard to the issue of violence against women and children (E/CN.15/1995/5).

2. On the recommendation of the Commission at its fourth session, the Economic and Social Council adopted resolution 1995/27. In section IV of that resolution, the Council decided that the elimination of violence against children should be considered within the priority theme "Crime prevention in urban areas, juvenile and violent criminality" of the United Nations crime prevention and criminal justice programme in the biennium 1996-1997. It also decided that the open-ended in-sessional working group of the Commission at its fifth session should seek ways to develop and undertake practical activities, including training, research and advisory services, to achieve the goal of preventing and eradicating violence against children.

3. The Council, also in its resolution 1995/27, section IV, requested the Secretary-General to initiate the process of requesting the views of Member States on the elaboration of an international convention on the illicit traffic in children, which might embody elements necessary to efficiently combat that form of transnational organized crime.

4. Also in resolution 1995/27, section IV, the Council invited the Secretary-General to consider ways of elaborating a programme of action aimed at promoting the effective use and application of instruments on juvenile justice and requested the Secretary-General to report thereon to the Commission at its fifth session.

5. The present report provides information on recent initiatives to counter violence against children. It summarizes replies received from Governments on the elaboration of an international convention on the illicit traffic in children. It offers suggestions on modalities that could be followed for the elaboration of a programme of action aimed at promoting the effective use and application of relevant United Nations standards and norms in juvenile justice. Suggestions made in the report with regard to the elaboration of a programme of action are based, *inter alia*, on the

results of the preparatory meeting towards an integrated international strategy, held at Vienna from 12 to 13 January 1996. The meeting was organized with the support of the Austrian Government.

I. INITIATIVES TO COUNTER VIOLENCE AGAINST CHILDREN

6. One of the most harmful areas in which children may be subjected to violence, both physical and mental, is child prostitution. An estimated 1 million children have been forced into child prostitution worldwide. Sex tourism is regarded as an important contributing factor. It currently represents only a fraction of overall child prostitution; however, in a number of countries the illicit profits to be gained from sex tourism have increasingly attracted the interest of organized criminal groups. The prevention of violence against children committed in the context of child prostitution has become a matter of international concern. The Council, in its resolution 1995/27, section IV, requested the Secretary-General, subject to the availability of extrabudgetary funding, to organize a meeting of an expert group on the prevention of the sexual exploitation of children for commercial purposes within the context of international travel (sex tourism). The German Government organized a meeting, held at Bonn from 22 to 24 November 1995, that brought together policemen, prosecutors and judges from Denmark, Germany, Philippines, Sri Lanka, Sweden and Thailand to discuss possible strengthened cooperation and mutual assistance, in order to ensure that tourists who, in countries other than their own, sexually abuse or exploit children will be brought to justice. At the meeting, informal contacts were established to support future cooperation between the various agencies of the participating countries.

7. In addition, the International Criminal Police Organization (ICPO/Interpol) and End Child Prostitution in Asian Tourism, a non-governmental organization, organized a meeting with decision makers of several Asian and European countries that was held at Bangkok from 17 to 19 January 1996. The meeting elaborated concrete cooperation strategies to serve as a basis for more effective investigation and prosecution of child abuse cases involving sex tourists.

8. The Commission on Human Rights, in its resolution 1995/78, decided that its open-ended inter-sessional working group responsible for elaborating the guidelines for a possible draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as well as the basic measures needed for their prevention and eradication, should elaborate, as a matter of priority and in close cooperation with the Special Rapporteur on the sale of children, child prostitution and child pornography and the Committee on the Rights of the Child, a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The working group met from 29 January to 9 February 1996 and on 22 March 1996. Proposals for a draft optional protocol are contained in the report of the working group on the question of a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as well as basic measures needed for their eradication (E/CN.4/1996/101). The following parts of the draft optional protocol have been considered by the working group: introductory part; definitions; implementation of pertinent instruments (preamble); penalization, compensation and protection of children; international cooperation and coordination; assistance and rehabilitation; information, education and participation; and other matters. The current text of the draft optional protocol will be made available to interested parties at the fifth session of the Commission on Crime Prevention and Criminal Justice.

9. The Swedish Government will host the World Congress against Commercial Sexual Exploitation of Children, to be held at Stockholm from 26 to 31 August 1996. The World Congress will consider nine specialized themes, law reform and law enforcement; the sex exploiter; child pornography; prevention and psychological rehabilitation; health issues; education and training; tourism and sexual exploitation; media ethics; and human values. At the World Congress, a political declaration and a plan of action will be considered; the declaration will be addressed to Governments and the plan of action will target all sectors of society.

II. VIEWS OF MEMBER STATES ON THE ELABORATION OF AN INTERNATIONAL

CONVENTION ON THE ILLICIT TRAFFIC IN CHILDREN

10. In pursuance of Commission on Crime Prevention and Criminal Justice resolution 3/2, entitled "International traffic in minors", a report on the world situation with regard to international traffic in minors (E/CN.15/1995/4), prepared by the Latin American Institute for the Prevention of Crime and the Treatment of Offenders, was submitted to the Commission at its fourth session. The report concluded that international trafficking in minors was a serious criminal offence committed primarily by criminal organizations with international connections. The report stated that the problem must be dealt with by measures that included criminal prosecution and that only a concerted effort on the part of the international community would be effective in combating such offences. It noted that no systematic studies had been conducted at the international level on the problem of sale of and trafficking in children and juveniles, except for reports by special rapporteurs appointed by the Commission on Human Rights. Some progress had been made in that area, although the machinery for the trafficking in and sale of children was still insufficiently controlled. Trafficking in children and juveniles occurred, essentially, because there were intermediaries who derived considerable financial profit from such criminal activity; that in turn was possible because of the demand supported by sufficient economic strength to permit the existence of a market. The lucrative activities of the intermediaries should be classified as criminal, and penalties appropriate to such offences should be imposed (E/CN.15/1995/4, paras. 70, 72 and 73).

11. The Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Cairo from 29 April to 8 May 1995, in its resolution 7,[1] invited the Commission on Crime Prevention and Criminal Justice to initiate the process of requesting the views of States regarding the process of elaborating an international convention on the illicit traffic in children, which might embody necessary elements to efficiently combat that form of transnational organized crime. Subsequently, the Economic and Social Council, in its resolution 1995/27, section IV, requested the Secretary-General to initiate that process. In pursuance of that request, the Secretary-General sent a note verbale dated 31 January 1996 to Governments of Member States, requesting them to inform the Crime Prevention and Criminal Justice Division of their views on the matter.

12. By 24 April 1996, the Secretariat had received replies from 18 States. While Argentina, Australia, Austria, Cuba, Estonia, Germany, Guatemala, Holy See, Jordan, Luxembourg, Norway, Panama, Poland, Qatar, Slovenia, Tunisia and Turkey, in principle, favoured the elaboration of such a convention, Japan raised some issues of concern regarding possible overlap with other relevant international instruments. Some States explained the reasons for their views in detail and made concrete suggestions on the possible content of such a convention. Those views and suggestions are summarized below.

13. Argentina reported that it supported the establishment of an agreement on the prevention of international trafficking in children in order to effectively combat that form of organized crime. It stated that international traffic in children violates the Convention on the Rights of the Child (General Assembly resolution 44/25, annex). Argentina also referred to Commission resolution 3/2, on the international traffic in minors, and to Economic and Social Council resolution 1995/27, section IV. A future convention on the subject should take into account the following, based on the Inter-American Convention on International Trafficking in Minors, adopted at the Fifth Inter-American Specialized Conference on Private International Law, held at Mexico City in March 1994:

(a) The Convention should include a preambular or introductory part that should include the reaffirmation of the inherent basic rights of the child and the commitment of Member States to establish a penal system that is in the best interest of the child. It should include another part with the objectives and a third part that fixes the penal aspects;

(b) States parties should agree on definitions of the legal concepts of "minors", "trafficking", "trade", "abduction" and "detention". The agreement on such definitions is an essential condition for the effectiveness of a convention on the prevention and sanctioning of those illicit acts;

(c) As for the penal aspects *stricto sensu*, a model should be established concerning abduction of children, illegal detention of children (only when referring to an act of trafficking) and international trafficking in children, conceived as an illicit activity, determined by profit-making or other motivation. Such a model should consider the attempt to commit such acts, and should describe the circumstances that attenuate or aggravate penal responsibility. There should also be a general norm on the elements of conspiracy and participation, including the instigation and abetting of such acts. From the point of view of criminal policy, it would be appropriate to provide for an exemption from punishment in the case of biological parents reporting the act or collaborating in the investigation. That might be a way to avoid hindering the investigation and disclosure by penalizing all those involved in the act;

(d) Any such convention should include a technical assistance and cooperation system (including the exchange of information) and minimum rules on extradition specifically related to such cases. To that end, the convention itself should provide sufficient legal basis to proceed with extradition, in order to close a gap where sufficient extradition treaties do not exist.

14. Australia supported, in principle, the elaboration of an international convention on the illicit traffic in children. Referring to the inter-sessional open-ended working group for the elaboration of a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (E/CN.4/1995/95) and to the draft declaration and draft action guidelines to be considered in August 1996 by the World Congress against Commercial Sexual Exploitation of Children, Australia suggested that there should not be any inconsistency between a new international convention on the illicit traffic in children and other United Nations instruments. Referring to the current discussion within the international community on the possibility of elaborating a new convention on the prevention of trafficking in women, Australia stated that, in its view, the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (General Assembly resolution 317 (IV), annex) was out of date and moralistic, as it did not make the distinction between voluntary and forced prostitution. Australia suggested that consideration might need to be given to ensuring a coordinated approach to preventing trafficking in all peoples, particularly children and women.

15. The Austrian Federal Ministry of Justice supported in principle the idea of taking international measures against this form of transnational organized crime. However, experience had shown that the drafting of such a convention, as well as its implementation, required considerable time. The issue was not regarded as being immediately relevant to the situation in Austria, as cases of illicit trafficking in children in that country were not known to the Austrian authorities; there was no specific penal provision regarding trafficking in children.

16. Estonia stated that it recognized the need for the elaboration of an international convention on the illicit traffic in children and that the competent authorities of Estonia were willing to provide their assistance in that matter.

17. The Government of Germany regarded combating illicit traffic in children as a matter of the utmost importance. The idea of elaborating an international convention on the illicit traffic in children needed to be discussed further, taking due account of existing conventions in that specific area, which already provided a comprehensive legal framework (for example, the International Convention for the Suppression of the Traffic in Women and Children, concluded at Geneva on 30 September 1921, as amended by the Protocol signed at Lake Success, New York, on 12 November 1947).[2] The German Government was of the view that discussion should therefore concentrate on closing any loop-holes that might exist, by means of an international instrument.

18. The Government of Guatemala supported the elaboration of an international convention on the illicit traffic in children. Such a convention should provide States with a valuable juridical tool to implement international policies to fight that form of national and international crime effectively.

19. The Holy See favoured the elaboration of a convention against trafficking in children. Behind the trafficking in children were situations involving poverty and abandonment, which often stemmed from social and economic problems of families, such as widespread unemployment; little State support for large families or for families with little income; young persons quitting school because of financial problems of their families; debts of families

contracted with usurers or with criminal organizations repaid by illicit work or illicit activities involving minors; and moral or social degeneration in suburbs. Together with repressive measures, there must be preventive action aimed at promoting the socio-economic situation of families, the quality of life for children, and the mentality and the culture of the people in degenerating suburbs. Moreover, suburb reconstruction programmes should be formulated for suburbs, in addition to rehabilitation and social reintegration programmes for minors having already entered the cycle of prostitution, drug trafficking or organized crime.

20. Japan regarded the elaboration of an international convention on the illicit traffic in children as not fruitful. In its view, the elaboration of such a convention would unnecessarily overlap the relevant international instruments that already existed regarding the issue, including the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women (General Assembly resolution 34/180, annex), the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and the International Convention for the Suppression of the White Slave Traffic and its Protocol.[3] In addition, a working group established under the Commission on Human Rights was elaborating a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (see paragraph 8 above). Japan suggested that States that shared the view that some provisions of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and the International Convention for the Suppression of the White Slave Traffic had become inappropriate in terms of not meeting the needs of today's international society should specify which provisions were to be updated.

21. Norway stated that such a convention should go further than existing international conventions in that area, such as the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. Norway also stated that due consideration should be given to the fact that trafficking in children was usually an economically motivated crime and it should be viewed as such. It was important to keep in mind that trafficking in children was often connected with other forms of serious crime. Because of the organized and transnational aspects of trafficking in children, it was necessary to combat the problem with effective international cooperation involving police.

22. The Government of Panama pointed out that the use of children for economic exploitation was a growing phenomenon and that it was clearly linked with maladies of societies in the process of development, such as poverty, juvenile delinquency and social disintegration. The Government expressed its will to cooperate with all activities of the United Nations related to the elaboration of a convention on the illicit traffic in children, in which the necessary elements to combat efficiently that new form of transnational organized crime could be incorporated.

23. Poland, in support of the elaboration of such a convention, suggested taking into account the existing regulations, namely the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and the Convention on the Rights of the Child.

24. Qatar expressed the hope that such a convention would take into account the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (General Assembly resolution 40/33, annex) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) (General Assembly resolution 45/112, annex) and would benefit from the relevant provisions contained therein.

25. Tunisia referred to the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Practices Similar to Slavery,[4] the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and the Convention on the Rights of the Child, which all provided that States parties should take appropriate legislative measures to fight against practices similar to slavery, which implied the exploitation of children or their work. The Tunisian Government stated that it could not but support the elaboration of an international convention on the illicit traffic in children which would contain effective mechanisms to counteract that form of transnational organized crime.

26. Turkey stated that there was no provision in Turkish legislation against the preparation of an international convention on the illicit traffic in children and that, therefore, it would favour the elaboration of such a convention.

III. TOWARDS THE FORMULATION OF A PROGRAMME OF ACTION TO PROMOTE THE EFFECTIVE USE AND APPLICATION OF INTERNATIONAL STANDARDS AND NORMS IN JUVENILE JUSTICE

27. Since the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva from 22 August to 3 September 1955, approaches to the prevention of juvenile delinquency, administration of juvenile justice and protection of the young have undergone a gradual evolution of thought and action under the aegis of the United Nations. Three instruments have been developed that cover the main aspects of juvenile justice, namely the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113, annex).

28. Further to the restructuring of the United Nations crime prevention and criminal justice programme in the period 1991-1992, emphasis has been increasingly placed on the implementation of existing international standards and norms, as well as technical cooperation, in crime prevention and criminal justice. Numerous Member States have requested the Crime Prevention and Criminal Justice Division of the Secretariat to provide technical assistance to establish a juvenile justice system or to improve their juvenile justice courts, detention facilities and prevention policies. The Division has also participated in training seminars to upgrade the professional skills of juvenile justice personnel in various countries.

29. Taking into account the range of experience so far developed by the Division and the emerging concerns of the international community, a programme of action would be a most useful tool to support technical assistance activities, as well as the implementation of international standards and norms in juvenile justice, in a more concerted and effective manner.

A. Background and justification

30. As of 30 November 1995, the Convention on the Rights of the Child had been ratified or acceded to by 181 States. The Convention, which was developed in the context of the United Nations human rights programme, is the most important international instrument to protect the human rights of the child. Covering a wide range of fundamental rights and freedoms for children, the Convention, *inter alia*, stipulates basic guarantees for children who come into conflict with the law. Several States parties to the Convention have experienced problems in implementing the basic guarantees. For example, in some States, no separate jurisdiction for juveniles exists; pre-conflict stage resolution is not effectively used; diversion from criminal justice systems cannot be practised because of the absence of adequate alternative programmes; the administration of juvenile justice is inefficient; investigation and prosecution procedures are deficient; placement of juveniles in pre-trial detention is used inappropriately and for too long; or deprivation of children's liberty is not used as a last resort but as a general reaction to juvenile delinquency.

31. The Ninth Congress, in its resolution 7, entitled "Children as victims and perpetrators of crime and the United Nations criminal justice programme: from standard setting to implementation and action",[1] recommended that the Commission on Crime Prevention and Criminal Justice should invite the Secretary-General to consider, *inter alia*, ways of elaborating a programme of action aimed at promoting the effective use and application of (a) all relevant United Nations human rights instruments in the administration of justice, in particular with regard to children, and (b) United Nations standards and norms in juvenile justice. In the same resolution, the Ninth Congress requested the Commission to invite the Secretary-General to continue including in the various advisory services and technical assistance programmes, specific arrangements for technical assistance in the field of criminal justice and the administration of justice, with regard to children, including technical advice in law and criminal justice reform.

32. The discussion on the subject at the Ninth Congress was based on a working paper prepared by the Secretariat entitled "Crime prevention strategies, in particular as related to crimes in urban areas and juvenile and violent criminality, including the question of victims: assessment and new perspectives" (A/CONF.169/7) and on the recommendations made by the Expert Group Meeting on Children and Juveniles in Detention: Application of Human Rights Standards, held at Vienna from 30 October to 4 November 1994 (E/CN.4/1995/100). The Expert Group Meeting was hosted by the Austrian Government and was organized by the Centre for Human Rights of the Secretariat, the Crime Prevention and Criminal Justice Division and the United Nations Children's Fund (UNICEF), in cooperation with the Ministry of Foreign Affairs, the Ministry of Youth and Family and the Ministry of Justice of the host country.

B. Goal and objective

33. The major goal of the programme of action would be to promote the effective use and application of (a) relevant United Nations human rights instruments in the administration of justice with regard to children and (b) United Nations standards and norms in juvenile justice. This would include providing requesting States with advisory services to assist them in applying these instruments by bringing about legal reforms and training practitioners, such as police, prosecutors, judges and correctional officers.

34. In order to ensure that requests by Member States are met with adequate assistance by international entities, such as the Department for Development Support and Management Services of the Secretariat, the Crime Prevention and Criminal Justice Division, the Centre for Human Rights, UNICEF or the United Nations Development Programme (UNDP), proper follow-up of initial advisory services is essential. This could be achieved by implementing juvenile justice reform projects designed to support sustainable human development and to strengthen democratic institutions and the observance of the rule of law. Cooperation among international, national and local entities, as well as non-governmental organizations, is essential.

35. The objective of the programme of action would be to offer assistance, upon request, in the establishment or improvement of juvenile justice systems to those States for which the Committee on the Rights of the Child has recommended reform. In accordance with the Convention on the Rights of the Child, article 44, States parties to the Convention have the obligation to report on its implementation. The main functions of the Committee are to review those reports and to identify areas in which States parties to the Convention are not fulfilling their obligations under the Convention. If the Committee identifies such deficiencies, it may recommend that the State party in question should take immediate action to comply with the Convention. In the area of juvenile justice, the Committee has so far recommended to 14 States that they should make improvements. In those cases, the Committee has recommended that the Government concerned should contact the Centre for Human Rights and/or the Crime Prevention and Criminal Justice Division for assistance to rectify problems in the area of juvenile justice.

36. The United Nations High Commissioner for Human Rights has developed a plan of action aimed at assisting States parties to the Convention in their reporting obligation, thus improving the mechanism for reporting to the Committee on the Rights of the Child. States parties to the Convention would thus be in a position to submit more focused reports to the Committee, which, in turn, could make better focused, more specific recommendations to States parties. With regard to the area of juvenile justice in particular, the plan of action, as proposed by the United Nations High Commissioner, would be in harmony with the proposed programme of action, since a better report review procedure and more precise recommendations would facilitate the design of advisory services and would form a good basis for assessing needs in juvenile justice reform. The link between proper review procedures on the one hand and the provision of advisory services on the other was stressed by the Committee on the Rights of the Child in a general debate on the question of the administration of juvenile justice that was held at Geneva on 13 November 1995.

C. Main elements of the programme of action

37. The preparatory meeting towards an integrated international strategy, held at Vienna in January 1996, recommended that the programme of action should consist of the elaboration of an integrated international strategy on juvenile justice, to be accompanied by the development and implementation of technical assistance projects for countries facing the challenge to comply with the Convention on the Rights of the Child, in particular with respect to the application of juvenile justice instruments.

38. The strategy should be based on an inventory and analysis of the implementation of the Convention on the Rights of the Child. This should be done by reviewing the reports by States parties on the implementation of the Convention, submitted to the Committee pursuant to article 44 of the Convention. In addition, the inventory should include a summary of the recommendations of the Committee related to juvenile justice, contained in the concluding observations for each country. It should also take into consideration the use and application of the following three instruments adopted by the General Assembly with regard to juvenile justice: the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

39. The strategy should deal with the issue of how to make international cooperation in the field of juvenile justice more operational by identifying common problems faced by different countries. That would facilitate the analysis of shared needs, which in turn would lead to proposals on action to confront shortcomings in juvenile justice systems at the local and national levels, for instance introducing diversion programmes, improving the administration of juvenile justice, reducing the use of remand homes and pre-trial detention, improving the treatment of juveniles in prisons and creating effective rehabilitation programmes.

40. Even more important than improving the functioning of the juvenile justice system is the prevention of juvenile delinquency. Emphasis needs to be placed on formulating comprehensive prevention plans, as called for by the Riyadh Guidelines. The programme of action, therefore, should focus on strategies to successfully socialize and integrate all children and young persons, in particular through the family, the community, peer groups, schools, vocational training and the world of work. The programme of action should pay particular attention to children in exceptionally difficult circumstances, such as street children. The specific needs of street children require innovative responses that avoid institutionalization and formal intervention by law enforcement and judicial authorities and that avoid making it a crime to be a street child. Examples of good practice could be easily borrowed by States with similar social situations, with a view to providing a more focused and effective response to common problems.

D. Ways to elaborate and test the programme of action

41. The preparatory meeting towards an integrated international strategy suggested that there should be a meeting of an expert group to finalize the draft programme of action for consideration by the Commission on Crime Prevention and Criminal Justice at its sixth session. In addition, the expert group should discuss two pilot projects on juvenile justice reform. The pilot projects would be designed to ensure that the draft programme of action meets the actual needs and requirements of Member States requesting assistance in establishing or improving their juvenile justice systems. The projects would be monitored and evaluated with a view to improving other projects to be designed under the umbrella of the programme of action. The expert group should identify responsibilities for the implementation of the initial pilot projects in terms of both their substantive input and their resources. Accordingly, an assessment of needs should be made and pilot projects should be formulated in order to reform juvenile justice systems in at least two countries in different regions.

42. The meeting of the expert group should bring together:

(a) Principal entities within the United Nations system in the areas of human rights, administration of justice and children's rights;

(b) Non-governmental organizations working in the areas of human rights, administration of justice and children's rights;

(c) National, regional and international development agencies and possible funding agencies.

43. The Government of Austria has offered to host the meeting of the expert group to prepare a draft programme of action to promote the effective use and application of international standards and norms in juvenile justice, which could be held at Vienna by the end of 1996.

44. The two pilot projects mentioned in paragraph 41 above will necessitate close cooperation between the Committee on the Rights of the Child, executing agencies such as the Centre for Human Rights and the Crime Prevention and Criminal Justice Division, and possible donors. Such cooperation could result in the establishment of a mechanism for project development and implementation to ensure an adequate and timely response to requests by Governments, based on recommendations made by the Committee following its review of reports by States parties on the implementation of the Convention on the Rights of the Child.

45. Once developed, the implementation of the programme of action would need to be properly monitored on a regular basis, particularly as regards the design, formulation and execution of technical assistance projects on the reform of juvenile justice in requesting Member States. The Commission, as the United Nations body responsible for juvenile justice, could, together with the Committee on the Rights of the Child, take a leading role in monitoring the programme of action.

IV. ACTION REQUIRED OF THE COMMISSION

46. The Commission may wish:

(a) To request the Secretary-General to develop a survey on illicit traffic in children to facilitate the development of strategies of concerted action against this form of transnational organized crime;

(b) To invite Member States to encourage:

(i) Exchange programmes between law enforcement personnel and other bilateral exchanges to deal with transnational trafficking in children;

(ii) The increased exchange of information, such as lists of known paedophiles and crime-linked data, in conformity with data protection legislation;

(c) To call upon Member States to establish a central registry of all missing children and to foster the cross-border exchange of information to facilitate the tracing and monitoring of the cases concerned.

47. In addition, the Commission may wish:

(a) To encourage further strengthened cooperation with the Department for Development Support and Management Services, the Centre for Human Rights, the Crime Prevention and Criminal Justice Division, UNICEF and UNDP to provide assistance on the reform of juvenile justice to requesting Member States;

(b) To take note with appreciation of the offer of the Austrian Government to host, by the end of 1996, the meeting of the expert group to finalize, for consideration by the Commission, a draft programme of action to promote the effective use and application of international standards and norms in juvenile justice and to discuss two pilot projects on juvenile justice reform;

(c) To decide to consider the draft programme of action at its sixth session.

Notes

[1]*Report of the Ninth United Congress on the Prevention of Crime and the Treatment of Offenders, Cairo, 29 April-8 May 1995* (A/CONF.169/16/Rev.1), chap. I. The report will subsequently be issued as a United Nations sales publication.

[2]United Nations, *Treaty Series*, vol. 53, No. 771.

[3]Ibid., vol. 98, No. 1358.

[4]Ibid., vol. 266, No. 3822.